

**MINUTES OF A REGULAR MEETING OF THE CITY  
COUNCIL OF THE CITY OF COEUR D'ALENE, IDAHO,  
HELD AT COEUR D'ALENE CITY HALL,  
JUNE 15, 2004**

The Mayor and Council of the City of Coeur d'Alene met in a regular session of said Council at the Coeur d'Alene City Hall, June 15, 2004 at 6:00 p.m., there being present upon roll call the following members:

Sandi Bloem, Mayor

Loren Edinger	)	Members of Council Present
Al Hassell	)	
Woody McEvers	)	
Ben Wolfinger	)	
Deanna Goodlander	)	

Dixie Reid	)	Members of Council Absent
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**CALL TO ORDER:** The meeting was called to order by Mayor Bloem. Mayor Bloem noted that Council President Reid is absent tonight as she is in Boise attending the Association of Idaho Cities Conference.

**INVOCATION** was led by Pastor Mike Slothower, River of Life Church..

**PLEDGE OF ALLEGIANCE:** Councilman Hassell led the pledge of allegiance.

**CITIZEN QUESTION:** The question this meeting was "I have heard the phrase "enterprise fund" mentioned at Council meetings. What is an enterprise fund?" Finance Director Troy Tymesen explained that an enterprise fund is used to report any activity for which a fee is charged to external users for goods or services. The City has 8 enterprise funds: Water, Wastewater; Water Capitalization, Wastewater Capitalization, Street Lighting, Sanitation, City Parking and Storm Water.

**PUBLIC COMMENTS:** Mayor Bloem called for public comments with none being received.

**CONSENT CALENDAR:** Motion by Wolfinger, seconded by Goodlander to approve the Consent Calendar as presented with the correction to the minutes.

1. Approval of minutes for June 1, 2004.
2. The Public Works Committee and General Services Committee meetings are scheduled for July 12th at 4:00 p.m.
3. RESOLUTION 04-066: A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO AUTHORIZING THE BELOW MENTIONED CONTRACTS AND OTHER ACTIONS OF THE CITY OF COEUR D'ALENE INCLUDING APPROVAL OF A PUBLIC ROAD CROSSING AGREEMENT WITH UNION PACIFIC RAILROAD – CENTENNIAL TRAIL AT HUBBARD AVENUE (2257-26); APPROVAL OF A PIPELINE LICENSE AGREEMENT

WITH BNSF RAILROAD – BEEBE BOULEVARD (04-26740); APPROVAL OF A PIPELINE LICENSE AGREEMENT WITH BNSF RAILROAD – LAKEWOOD AVENUE (04-26738); APPROVAL OF A PIPELINE CROSSING AGREEMENT WITH UNION PACIFIC RAILROAD – LAKEWOOD AVENUE (02247-31); APPROVAL OF A PIPELINE CROSSING AGREEMENT WITH UNION PACIFIC RAILROAD – BEEBE BOULEVARD (02253-06); DECLARATION OF SURPLUS PROPERTY; REJECTING STUMP ART PROPOSALS AND AUTHORIZING RE-ADVERTISEMENT; APPROVAL OF A CONTRACT FOR SUMMER ARTS PROGRAM INSTRUCTORS; APPROVAL OF A S-5-03 – FINAL PLAT APPROVAL AND SUBDIVISION IMPROVEMENT AGREEMENT FOR SUNSHINE MEADOWS, 2<sup>ND</sup> ADDITION AND RATIFY A LANDSCAPE MAINTENANCE AGREEMENT WITH HAGADONE HOSPITALITY AT THE I-90/US 95 INTERCHANGE.

4. Approval to exception to “No Cut” policy at Annie and 4<sup>th</sup> Street.
5. Approval of cemetery lot transfer from Donald Lenz to William M. Lenz, Sr.
6. Approval of beer/wine licenses for Zi Spa in Riverstone, Lake Side Food Mart on NW Blvd., and Café Doma at 501 E. Sherman and a beer/wine/liquor license for Bonzai Bistro at 101 Sherman.
7. Approval of bills as submitted.
8. Setting of public hearings for ZC-5-04 (sw corner of Neider and 2<sup>nd</sup>) for June 20, 2004 and O-2-04 – temporary construction parking for July 20, 2004.
9. Acceptance of Rights-of-Way acquisition for Gov’t Way Project, Phase 2.
10. SS-13-03 – Approval of final plat for Napoleon Addition

ROLL CALL: Hassell, Aye; Goodlander, Aye; McEvers, Aye; Edinger, Aye; Wolfinger, Aye. Motion carried.

**SUMMER READING PROGRAM:** Councilman Goodlander announced that this year's Summer Reading program is now under way.

**APPOINTMENTS – PARKING COMMISSION AND NOISE ABATEMENT BOARD:** Motion by Edinger, seconded by McEvers to appoint Rolly Jurgens, Kevin Jester and Teresa Capone to the Parking Commission and Nancy Schilling and Nick Schilling to the Noise Abatement Board. Motion carried.

#### RESOLUTION 04-067

A RESOLUTION OF THE CITY OF COEUR D’ALENE, KOOTENAI COUNTY, IDAHO AUTHORIZING A LETTER OF AGREEMENT FOR DESIGN AND MANUFACTURING OF DIRECTIONAL PARKING SIGNS TO THE CITY’S DOWNTOWN PUBLIC PARKING WITH IMAGINATION GRAPHICS, ITS PRINCIPAL PLACE OF BUSINESS AT 1503 N. 4<sup>TH</sup> STREET, PO BOX 2637, COEUR D’ALENE, IDAHO 83814.

Motion by Wolfinger, seconded by Goodlander to adopt Resolution 04-067.

ROLL CALL: Goodlander, Aye; McEvers, Aye; Hassell, Aye; Wolfinger, Aye; Edinger, Aye. Motion carried.

ORDINANCE NO. 3178

AN ORDINANCE ANNEXING TO AND DECLARING TO BE A PART OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, SPECIFICALLY DESCRIBED PORTIONS OF SECTION 19 & 20, TOWNSHIP 50 NORTH, RANGE 4 WEST, BOISE MERIDIAN; ZONING SUCH SPECIFICALLY DESCRIBED PROPERTY HEREBY ANNEXED; CHANGING THE ZONING MAPS OF THE CITY OF COEUR D'ALENE; AMENDING CHAPTER 1.16, COEUR D'ALENE MUNICIPAL CODE BY DECLARING SUCH PROPERTY TO BE A PART OF PRECINCT #61; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE HEREOF.

Motion by Wolfinger, seconded by McEvers to pass the first reading of Ordinance No. 3178.

ROLL CALL: Hassell, No; Edinger, No; Goodlander, Aye; Wolfinger, Aye; McEvers, Aye.. Motion carried.

Motion by Wolfinger, seconded by Goodlander to suspend the rules and to adopt Ordinance No. 3178 by its having had one reading by title only.

ROLL CALL: Hassell, No; Edinger, No; Goodlander, Aye; Wolfinger, Aye; McEvers, Aye. Motion carried.

**PUBLIC HEARING – ZC-4-04 – ZONE CHANGE AT CROWN PACIFIC PROPERTY:** Mayor Bloem read the rules of order for this public hearing. No Councilman declared a conflict of interest. John Stamsos, Associate Planner, gave the staff report.

Mr. Stamsos gave the applicant's name as Neighborhood Inc. and the location as 10.1 acres of C-17L zoning in the eastern portion of the former Crown Pacific property, which is approximately a 100.29-acre parcel adjacent to the Spokane River and east of the City of Huetter. He summarized the requested acreage differences between the existing and proposed zonings as follows: R-3 from 26.1 acres to 25.9 acres; R-8 from 27.3 acres to 31.6 acres; R-17 from 22.4 acres to 13.1 acres; C-17 from 14.1 acres to 19.7 acres; and C-17L from 0 to 10.1 acres.

He went on to give the staff analyses for land use, neighborhood characteristics, zoning, public utilities and traffic. On May 11, 2004 the Planning Commission recommended approval of the zone changes with no conditions and approved PUD-4-04 - Mill River PUD and S-5-04, Mill River 258-lot preliminary plat subdivision.

He reported that on May 28, 2004, 130 notices of this public hearing were mailed with 5 responses being received: 5 in favor, 0 opposed, and 0 neutral.

**PUBLIC COMMENTS:** Chuck Lempesis, representing the applicant for Mill River properties, stated that there are three primary reasons for the request to rezone the C-17-L area; this is the location is where Neighborhood Inc. has agreed to dedicate up to a 10-acre parcel for US Bank, it also creates a buffer between the commercial property and the residential zones, and this is the area where the developers are contributing land to the City for future beach front property.

**COUNCIL DISCUSSION:** Councilman Edinger asked if the issues regarding the sawdust from the pellet plant located on the property to the east have been resolved. Mr. Lempesis responded that they have been working with the landowner, Stimpson Lumber on this issue and he noted that the buffer obligations required by the Council are still in place.

**MOTION:** Motion by Wolfinger, seconded by Edinger to approve the requested zone change. Roll Call: Edinger, Aye; Goodlander, Aye; Hassell, Aye; McEvers, Aye; Wolfinger, Aye. Motion carried.

Motion by Wolfinger, seconded by Goodlander to adopt the Findings and Order of the Planning Commission. ROLL CALL: Edinger, Aye; Goodlander, Aye; Hassell, Aye; McEvers, Aye; Wolfinger, Aye. Motion carried.

### **PUBLIC HEARING – ZC-3-04/PUD3-04/S-2-04 – COPPER RIDGE**

**DEVELOPMENT:** Mayor Bloem read the rules of order for this public hearing. No Councilman declared a conflict of interest. John Stamsos, Associate Planner, gave the staff report. Councilman Wolfinger, Hassell, Goodlander, McEvers, and Edinger also noted that they have received letters and e-mails and had conversations with individuals regarding this issue.

Mr. Stamsos noted that tonight's public hearings are for the request of a zone change from R-1 to R-3, an appeal to the "Copper Ridge PUD" which includes modification to eliminate the 75-foot public street frontage requirement of each lot; provide for private streets with a 40-foot right-of-way, 28-foot paved street, rolled curbs and sidewalk on one side; increase the maximum cul-de-sac length from a street from 400-feet to approximately 1,700 feet. And the third hearing is for the final appeal of the subdivision plat.

He noted that when the City annexed the property for the Seventh Day Adventist Church that water service would not be available for the hillside. He also noted that the surrounding area's average lot sizes range from 12,000 sq. ft to 13,000 sq. ft. with this proposal having average lot sizes at 12,456 sq. ft.

He went on to give the staff analyses for land use, neighborhood characteristics, the comprehensive plan, zoning, utilities and traffic. He noted that on May 28, 2004, 90 notices of this public hearing were mailed with 30 responses being received, all opposed to the zone change, PUD and plat. Written comments were distributed for Council review.

He reported that on April 13, 2004, the Planning Commission recommended approval of the proposed zone change by a 2 to 1 vote with the following conditions:

1. That lots 1 through 27 of the preliminary plat be re-zoned to R-3 and that the remaining hillside lot 28 remain in the R-1 zoning designation.

The Planning Commission then voted to approve the PUD with the following conditions:

1. Creation of a homeowners association to ensure the perpetual maintenance of all common open space.
2. All lots will comply with the minimum lot size requirement of the underlying zoning.
3. Elimination of all gates.
4. The general public to have access to the open space area in perpetuity.

The Planning Commission also voted to approve the plat with the following conditions:

1. Preserve trees 10 inches DBH and larger, outside of rights-of-way and utility easements during construction of public improvements.
2. Prior to any work being initiated and any connection made, a certified engineering report completed at not cost to the city, will need to be submitted detailing the available EDU capacity remaining at the lift station. If the study warrants capacity upgrades, all such upgrades will be completed by the applicant at no cost to the City, prior to any service connection being made.
3. Submission of a topographic review and gravity sewer rout concept report, completed at no cost to the City that details the most appropriate gravity line route bypassing the Shaddock Lane lift station to the future Nettleton Gulch interceptor. The applicant shall work in conjunction with the WWTP staff to assess the extent of the report.
4. If found applicable, installation of "dry sewer" in the Shaddock right-of-way along the southerly boundary of this subject property frontage shall be required.
5. The streets in the subject development are proposed to be "private; therefore, an easement will need to be installed for the placement and continued maintenance of the sanitary line and appurtenances.
6. Sizing of the water lines and their locations will be determined by City Water Department and the water mains will be extended, at not cost to the City.
7. The access easement shown on the submitted preliminary plat, construction of the future roadway and the water storage structure will all need to be acceptable to the City Water Department and constructed, at no cost to the City.
8. No construction will be allowed above the elevation noted in the underlying annexation agreement until such agreement is amended and approved by the City Council.
9. The required stormwater plan submittal must conform to all requirements of the City's Stormwater and hillside ordinances.

PUBLIC COMMENTS: Steve Wetzel, 5510 Parkwood Lane, Coeur d'Alene, representing Quest Development, Inc. owned by Greg Schneider and Fred LeClair. The owner of the property is the Upper Columbia Corporation of the 7th Day Adventist Church. He reported that, originally, the 7th Day Adventist Church annexed the property in order to build a school. Those plans have changed and so Quest Development has entered into an agreement with the Church to purchase the property. He noted that the original zoning was R-1; however, Quest Development would like to change the zoning for lots 1-27 to R-3 and leave the remaining Lot 28 at R-1. He noted that Quest would continue to allow public access to use the open space. The changes they are requesting are narrower streets, cul de sacs and rolled curbs. Joe Hassell, project engineer, representing Inland Northwest Consultants, stated that tonight they are only dealing with the 27 lots. He noted that by reducing the roadway width this allows for the preservation of 75 trees. He also noted that they have taken a careful look at all the utilities and they can meet all the conditions required. Steve Wetzel, reported that public utilities are available and the land is relatively flat, the average lot size is now 11,500 as requested by the Planning Commission. He noted that the units per acre are barely above an R-1 zone, and this will not be a gated community. This results in roughly an equivalent development as the surrounding subdivisions. He noted that he would also like to add the statement that the general public has pedestrian and bicycle access to the open space in this development, but would request prohibiting motorcycles that are deteriorating the hillside. He reminded the Council that prior developers have had the same opposition from neighbors to any additional development. He noted that there is a fear of the future subdivision on the hillside; however, the Council is looking to approve the 27 lots tonight and any future subdivision development will have the same care taken by the Council to judge each future subdivision as they are presented. He also noted that there is no proposal for hillside development in this request. Councilman Edinger asked Mr. Wetzel if he would testify that there is no future hillside development planned. Mr. Wetzel responded, no. He also noted there is no plan to expand the water service to the hillside at this time. He stated that the neighbors believe that the City has the money to turn any property into city parks, which is not accurate. He noted that 20% of the subject property is being preserved as open space that will remain open to the public in perpetuity. He again reminded the Council that the only issue tonight before them tonight is the 27-lot proposal that is being requested to have an R-3 zoning with a PUD. He believes that this will be a nice addition to the neighborhood and nothing is happening up the hill. He summarized that he requests the Council approve the zoning, PUD and plat and adopt the Findings and Order of the Planning Commission with the one change to the conditions regarding public access and motorcycles. Councilman Edinger reiterated Mr. Wetzel's statement that the owners of the property would be willing sell the hillside to the neighbors. Since the County Assessors Office assessed the hillside at \$130,000, would the owners be willing to sell the property at price. He also asked if the City could help in this purchase. Mr. Wetzel noted that there is a timber exemption on this property, which lowers the assessed value and this was not the amount paid for by Quest.

Jim Pierce, 3846 Miners Loop, discussed the zone change and PUD as it compares to the Comprehensive Plan. He noted that the Comprehensive Plan provides for a goal that specifically mentions the quality of life for "residents" of this City and omits any mention

of the need to provide profits for the developers. He also cited other areas of the Comprehensive Plan, which provide for the preservation of the City's visual resources and preservation of surrounding neighborhoods, traffic circulation. In summary, he stated that Canfield Mountain should remain open space and asked if anyone would be willing to purchase the mountain.

Councilman Wolfinger asked Mr. Stamos what is the projected traffic increase. Mr. Stamos responded, 24 trips per day. Councilman McEvers asked Mr. Stamos to clarify the statements regarding protecting the views and vistas noting that the primary opponent seems to believe that means no development. Mr. Stamos noted that the City does not require but encourages the preservation of views and vistas. Jay Barnett, 3900 Miners Loop, stated that Canfield Mountain is one of the major views of the City of Coeur d'Alene, and voiced her concern that the developers will take away the public's access to the hillside. She also noted that the neighbors abutting the subject property paid several hundred dollars more for their view of the adjacent property. She also voiced her concerns of possible slope erosion and deterioration of Canfield Mountain. Bruce Shaddock, 2014 E. Sundown Dr. Cd'A, noted that it was family that had owned the subject property. He stated that when the family had sold the property to the Church it was believed they would be building a school and the remaining land would remain natural. His concern is that the prospective purchasers of this property will not preserve Canfield Mountain and asked the City to work with the Church to purchase this land for a hillside park. Woodrow Pierce, 3749 Miners Loops, Coeur d'Alene, opposes the Copper Ridge Development but particularly the stormwater issues, noting that he believes development of this property would create a runoff into the Shaddock Lane properties. He also noted this development might decrease the water pressure in the area. He noted that the applicant has stated that the City wants a water tank on the top of Canfield Mountain although the City staff knows of no plans for the placement of a water tank. He feels that the developers have not responded to their concerns of water runoff from the hillside. The trails that the public has used on this property should remain with the public and the City should preserve these trails. Myrna Walden, 3905 Sutter's Way, stated that she does support growth as long as it falls within the standards and policies of the City. She cited Title 16.20.020 regarding streets which should be compatible to the existing trees in the neighborhood. She noted that the developer proposed to change the current design standards from a 400 ft. limit for cul de sacs to 1,700 feet. Also, street rights-of-way require a minimum of 50 feet; however, the developer has requested 45 feet right-of-way with 28 feet wide streets. She stated that lot 20 is a double-frontage lot which is prohibited by City code. She believes that this development is being proposed to a lower standard than neighboring subdivisions. Roberta Truscott, 3774 Sutter's Way, asked the Council to stop the devastation of Canfield Mountain. She feels that there are impacts to public safety due to the narrower street widths and sidewalks only on one side of the road. She asked why citizens must sacrifice for the benefit of the developer. She compared development to a cancer in our community. She requested the Council deny the zone change and require public access to this property. Klaus Kummerling, 3826 Sutter's Way, voiced his concern for the public process of this zone change and PUD, and believes that this is the turning point for this administration and staff. He believes that the people of this city are opposed to growth, construction and zone changes and

opposes the Council's favoritism to developers. He believes that the cost to communities for new development proves why the City should stop development and growth of this City. Gary Henderson, 3857 Sutter's Way, opposes this zone change and PUD noting that this development is not in compliance with several city codes. He believes that this development will negatively impact traffic in the neighborhood especially in the Prospector Ridge neighborhood. He noted that the developer has publicly announced that he does not intend to follow the recommendations of the Planning Commission and that the gates will win. He asked if the developer had done any traffic impact studies. He proposed that the City deny this application. Judy Hohl, 3797 Sutter's Way, believes that this development would jeopardize the population of wild animals such as pheasants, moose, wild turkeys and other bird species in the Coeur d'Alene area. Kiantha Shaddock, 2014 E. Sundown Drive, opposed this development due to the detriment of the trees on this property. Glenn Prescott, 3774 Sutter's Way, opposed the requested zone change and addressed the hillside timberland and the possible negative impact of this development. He believes that the developer will take this hillside and strip it of all its natural trees and growth. He believes that for this reason alone they should deny this zone change.

RECESS: Mayor Bloem called for a 5 minutes recess at 8:32 p.m. The meeting reconvened at 8:38 p.m.

PUBLIC COMMENTS Cont'd: Tom Osborn, 3529 N. 21st Place, feels that there are inconsistencies in the City staff and the meeting with Quest and this Council meeting. His issues were conflicting statements regarding the total acreage of this proposed site, the City Engineer's lack of knowledge of the stormwater runoff in this area, and that a water facility is not planned, yet tonight that was not what was stated. He noted that Mr. Wetzel stated there would be not water tank, yet the developers said there would be a tank and stated that the City required the water tank. Yet, the Water Superintendent stated that there was no tank to discuss. He referred to the developer's statements that the development could not pencil out without future development on the hillside. The issue of the gate is also a debate, is it in or is it out. In summary, he asked that in face of these inconsistencies that this project be denied. Nora Pierce, 3846 Miners Loop, noted that if the rezone is denied, the developer loses nothing because they do not own the land, they would simply not go through with the purchase of this property. She noted several criteria in the City Comprehensive Plan relating to the preservation of property rights, adjoining properties and neighborhood. She believes that if the City purchased the hillside and made it a park, then the neighboring properties would increase in value; however, if the Council allowed an R-3 zoning it would adversely impact the neighbors' property values. She asked that no development be allowed unless it follows the strict policies of the City. Ron Cope, 3864 N. Miners Loop, noted that the Planning Commission approved a 50-acre development when the developer submitted plans for less than 20% of the land covered by this PUD. He believes that the developer has not submitted sufficient plans in order to tell us what he intends to do with over 80% of this property. He noted that the submitted Planned Unit Development should be submitted to show the full plans of this entire parcel before any decision should be made. Mike Murray, 4507 Huntercrest Dr., asked if the developer had fulfilled the requirements of



common open space in this area. He noted that the proposed easement for open space does not follow the existing trail on the hillside, but provides for slopes of 50%, which is too steep for development and accessibility to common activities. Robert Peterson, 190 E. Jeffrey Lane, addressed the issue that the proposed project is not the entire project as shown by the street structure. He noted that at the May meeting, Mr. Wetzel stated that the development would not lose a lot as required by the conditions set by the Planning Commission on the plat. He noted that Lot 13 was reported as having a total of 10,414 sq. feet on their April, 2004 plat, but the revised plat presented in May shows Lot 13 to have a total of 11,594 sq. ft., but had the same lot dimensions of 100' x 107' x 101' x 102 feet on both plats for lot 13. David Garnet, 3900 Miners Loop, believes that this development does not have any regard for the natural environment by cramming in the maximum number of lots into this development, decreasing road widths, omitting sidewalks, and ignoring the prohibition of double-frontage lots. He believes that the burden of proof that a development meets the City standards and protects the surrounding neighborhoods lies with the developer. He encouraged the Council to deny this development. Gloria Cope, 3864 N. Miners Loop, believes that this property is different from surrounding neighborhoods because it is placed on the hillside. She stated the City is currently providing 4 acres of parkland per 1,000 residents and encouraged the Council to purchase Canfield Mountain for a City Park. She asked the Council to deny this project. Sara Peterson spoke in opposition to this development. Marv Satuloff, 1996 E. Gunther, believes that this developer is deceiving the City by stating that there is no diminishment to City standards with their narrow streets and one sided sidewalk. He believes that the Council needs to follow their vision statement and deny this development since this project is proposing narrow streets, crammed housing and one-sided sidewalks. He voiced his concern about the lack of accessibility for emergency vehicles. Earl Crane, 2035 Berrywood St., opposes the developers' request for zone change just to construct more houses. He believes that there is more development in this project than the developers are willing to share. Ian Truscott, 3774 Way, stated that he and his friends use the base of the mountain on a regular basis for bicycle riding and the proposed development would prevent him from continuing to use this property. He asked the Council to keep in mind all the age groups this development would affect. Mary Smith, 4333 Deerfield Dr., stated that she is fearful that this development is the predecessor to encroaching up the side of the mountain. Although she believes that property owners have the right to develop their property, she feels that this development is detrimental to the City and would open the door to adverse future development. Mike Piper, 3650 E. Lancaster Road, Hayden Lake, spoke in opposition to this request.

Mayor Bloem listed the citizens that had signed up in opposition to the development but did not wish to speak. She also listed those citizens who were in favor of this development but did not which to speak.

Mr. Wetzel, rebutted by noting Mr. Pierce's statements and explained that this is a significantly different proposal. He noted that the best way to protect future development is to approve the zone change and PUD tonight and then protest any future amendments. He commented that the developer does not have any plans to further develop the hillside unless they do decide to go through this process again. He believes that if the Council

denies the PUD and maintains the R-1 zoning, that would destroy the mountainside, as the PUD would disappear and more homes would be built up the side of the mountain. He believes that the 27-lot development would not negatively impact traffic flow. He stated that the developer believes that traffic flow was not to be directed into other subdivisions but was to be directed to major streets. He noted that stormwater needs to be engineered and has to be approved. Regarding the 500,000-gallon water tank, the developer does not even have any plans at this time; however, it was at the neighborhood's request to see future plans that this issue was brought up. In response to the suggestion to stop growth, that is almost impossible to do, but managed growth would occur if the Council approve this zone change. He believes that there is nothing that is given up or taken away by approving this zone change. He reiterated that there would not be any gates going into the community. In regard to the plat, he believes it must be a Scribner error. This was a preliminary plat and not a final plat. He noted that Prospector Ridge was a beautiful treed area, and if the Council held that developer to the same standards that the residents that now reside in that development are requesting, their development would not have been approved. In regard to changes in the standards, he believes that that is what a Planned Unit Development is about. He refuted the challenge that the comp plan is to protect public common open space, rather the plan states private common open space.

Councilman Wolfinger questioned the water tank. Joe Hassell, engineer for the development, noted that the proposed water tank could be located on the other side of the mountain and is not a part of the development at this time. He stated that if the developer constructs higher up the mountain, the tank would be required and they would be back before the Council. Councilman Wolfinger noted that several lots on this plat are below 11,500 sq. ft. Joe Hassell noted that the preliminary plat must have Scribner errors and the City's surveyor would correct those errors.

**COUNCIL QUESTIONS:** Councilman McEvers asked John Stamsos about the cul de sac and double-frontage lots, in particular next to Lot 20. He also asked, in regards to slowing growth and managing growth, has the City come up with a way to do that. Warren Wilson noted that the easiest way to slow growth is to enact ordinances. He further stated that public hearings are in place so that developers have the right to submit requests in order to be heard. He noted that tonight the Council is only looking at the current request and not future development and needs to base their decision on the merits of this proposal. He believes that there would be at least two future public hearings for the hillside. Mr. Stamsos noted that the City does not require impact studies and also that the State also does not have such requirements. Mr. Wilson noted that indeed the PUD is regarding the full 50 acres. He also noted that the urban forester does attend the development review committee meetings each Tuesday. Councilman McEvers asked if tonight's PUD is the full disclosure of the full plan. Mr. Wilson responded yes, if there were any changes they would need to bring those changes back to the Planning Commission. Councilman Mc Evers asked if the issue of the two lots with different overall square footage numbers is acceptable. Mr. Wilson responded that he doesn't know if this is normal, but the final plat would be reviewed for accuracy. Councilman McEvers referred to statement regarding legal liability and asked if the City is liable. Mr.

Wilson responded that the City is liable if the City has done something wrong. He noted that the City would not be liable for someone just walking down a street. Regarding the issue of the city's liability for access for emergency vehicles, he believes that decision comes from the City's Emergency Care providers. Councilman Wolfinger inquired about the average water pressure in this area. Water Superintendent, Jim Markley, noted that this area ranges from 35-50 and the lots being proposed are basically at the same elevation as surrounding neighborhoods. He did not believe that the City has discussed limiting construction to a certain elevation. Also, he does not see this development impacting the flow of water in this area. Councilman Hassell asked what is our average water pressure citywide. Mr. Markley stated that it varies a lot; however, a goal would be in the 60-70 pound range. He added that the water pressure does get up to 90 pounds in some areas, which is on the high side. Councilman Goodlander asked what would increase the water pressure. Mr. Markley stated that the City would have to create a new pressure zone, which would be a new tank, and an intertie zone. He noted that the Hoffman water system is in the middle of this system, which limits what the City could do to increase water pressure in this area. Councilman Goodlander asked if there is any seasonal spring run off on the subject property, and if so, where is it. Growth Services Director Gordon Dobler responded that typically we ask the developer to research this. The geotechnical study done on this property shows that there is one but there was no ground water; however, if there is ground water then construction will need to address this issue. Councilman Goodlander inquired as to when this study was done. Mr. Dobler stated that the study was done in April of this year. Councilman Goodlander noted that there have been problems with ground water in the Cumberland Meadows area, to which Mr. Dobler noted that this concern is reflected in this development by the requirement for the geotechnical study. Councilman Goodlander asked how many times had drilling been done to obtain the necessary information, to which Mr. Dobler replied that it had been done in 8-10 areas. He noted that not all years would you have ground water, but the study did indicate the low spots on the subject property. He believes that we are in a much better position to enforce these types of issues. Councilman Goodlander asked if there were swales on both sides of the street, to which Mr. Dobler responded yes. Councilman Hassell wanted to know how many cul de sacs does the City currently have that are as long as the proposed cul de sac. Mr. Dobler could not confirm or deny the existence of any cul de sacs that length. He noted that the emergency access makes it more like 700 feet instead of 1,700 feet. He did note that we have cul de sacs with only one entrance/exit road. Councilman Hassell asked if there were other private roads in the City to which Mr. Dobler indicated that yes we do have private streets. Councilman Hassell asked what would happen if the homeowners association was not maintained and thus did not keep up the streets. Mr. Dobler felt that he could only speculate what would happen if the homeowners association dissolved. Councilman McEvers asked if the City has other double-frontage lots. Mr. Dobler noted that we do have them, but they are typically restricted to the interior access roadways. Councilman McEvers noted that testimony from citizens stated that we do not allow double-frontage lots, and wanted to know if this is a PUD type of thing or do we allow this to happen. Mr. Dobler responded that corner lots usually have two frontages; however, referring to Lot 20, he cannot remember seeing any lot that had such a sharp corner, thus this lot is unusual. Mayor Bloem asked for clarification that this PUD is the only way this property can be

developed if approved tonight. Deputy City Attorney Warren Wilson responded yes, unless they come back for another public hearing to amend the PUD. Mayor Bloem then asked if the PUD is denied, would it go away and the developer could construct 49 units on the hill, if property was subdivided. Mr. Wilson noted that per the annexation agreement, no water service above 2275 is permitted so the developer would have to ask for an amendment to the annexation agreement before developing above that level.

**COUNCIL DISCUSSION:** Councilman Edinger thanked the citizens for their presentation to the Council. He voiced his concerns that the lower land is zoned R-1 right now, and when Quest put an option to buy the property they knew it was R-1; however, now they are requesting R-3 and his concern that this hillside will turn into another Armstrong Park. He reminded the council that when Mr. Wetzel's wife was Administrator she recommended Council not to allow the Armstrong Park development. Today there are water problems in Armstrong Park, and although we are not talking about this hillside, he has concerns that this development would end up as another Armstrong Park. His concern is what would happen in the future. He believes that the developer, who has an option to buy the property with an R-1 zoning, is now coming back to the City for an R-3 zone change because the R-1 zoning is not profitable.

**MOTION:** Motion by Edinger, seconded by Goodlander to deny the zone change and direct staff to prepare Findings and Order and present them to the City Council for adoption. **ROLL CALL:** Hassell, Aye; Edinger, Aye; Goodlander, Aye; McEvers, Aye; Wolfinger, Aye. Motion carried.

**COUNCIL DISCUSSION:** Councilman Wolfinger thanked everyone for his or her testimony and believes that this was the best testimony he has ever heard. He noted that only three members of the Planning Commission were present to hear this zoning request and the final vote was split 2-1. Councilman Wolfinger believes that the stormwater issue needs to be addressed. He understands the focus is on 28 lots - 27 lots with R-3 zoning and 1 lot with R-1 zoning, but he has concerns about the street being too long and too narrow. Water is also an issue in this neighborhood, it should be 60 pounds yet it is currently 35 pounds. In regard to Wastewater, he believes the City would have to go to another pumping station. Additionally, in regard to the issue of public access to private property, he believes that the neighbors would not want people using their private property as they have used this property. He believes that the open access issue is well addressed. In regard to the Comprehensive Plan designating property as a transition area, which means more dense to less dense zoning or less dense to more dense, that although the requested R-3 zoning may be the same as the surrounding area, the PUD with narrow streets and denser lots does not make is the same.

Councilman Goodlander concurred with everything Councilman Wolfinger stated. She does have grave concerns with a narrow 28-foot street, the ground water issues with Cumberland Meadows, and other issues such as water pressure and drainage. She does not want to create the same issues in another development as are in the Cumberland Meadows area. She feels that making a more dense development by constructing in narrower streets is a major concern of hers.

Councilman Hassell noted that he had walked the area to see how this would relate to surrounding housing. He feels that the area looks like a natural drainage area. Also, he is concerned with not having a 2nd access. He believes the fact that the street is designed to be a hammerhead, it would appear there are plans for future development and the homeowners would have a nightmare maintaining the top portion of this PUD. He is also not comfortable having substandard facilities, since they would most likely be maintained by the City in the future, he would at least like them built to City standards. Water pressure has been a long complaint in that area. He noted that when he moved into his home, he had “acceptable water pressure” but it could not run his sprinkler system. With such low water pressure in this area, there is a definite need for a well, but a well to maintain 27 homes is not good economics. In regard to the preliminary plat, regulations must request preservation of public trees within public improvements and since this is not a public street they may remove all trees. Referring to general access to all open areas, he stated that access to him is the ability for the reasonable person to be able to access and area, this steep terrain is not accessible to a reasonable person. He stated that he has too many questions about this plan to approve it.

Councilman Wolfinger stated that he had compared the City’s Comprehensive Plan and the proposed plan and found 8 issues that do not meet the Comprehensive Plan. He noted that we had a lot of citizen input into the Comprehensive Plan and the Plan reflects the wishes of the people. He commented to Mr. Shadduck that the original sale agreement must not include restricting development in the area or we would not be here tonight.

Councilman McEvers stated that this is probably the first time he has seen this amount of homework done by citizens, misguided at times, but it made him think and congratulated them for doing an incredible job. He believes that the citizens have to get busy with the Church to create their park, such as the homeowners around did to develop Shadduck Park.

Councilman Edinger stated that he agreed with the comments made by the other Council members.

Mayor Bloem thanked the audience for being such a respectful audience during this public hearing process. She stated that she believes that the #1 position of the Planning Commission is to have strong neighborhoods and she commended this neighborhood for being so strong.

**MOTION:** Motion by Goodlander, seconded by Edinger to deny the PUD and direct to prepare the findings and to present to them to the Council at a future meeting. **ROLL CALL:** Hassell, Aye; Edinger, Aye; Goodlander, Aye; McEvers, Aye; Wolfinger, Aye. Motion carried.

Motion by Edinger, seconded by Goodlander to deny the preliminary plat and to direct staff to preparing the Findings and Order and to present to the Council for adoption.

ROLL CALL: Hassell, Aye; Edinger, Aye; Goodlander, Aye; McEvers, Aye; Wolfinger, Aye. Motion carried.

**EXECUTIVE SESSION:** Motion by Wolfinger, seconded by Goodlander to enter into Executive Session as provided by Idaho Code 67-2345 Subsection C: To conduct deliberations concerning labor negotiations or to acquire an interest in real property not owned by a public agency; and Subsection F: To consider and advise its legal representatives in pending litigation or where there is a general public awareness of probable litigation.

ROLL CALL: Wolfinger, Aye; Hassell, Aye; Goodlander, Aye; McEvers, Aye; Edinger, Aye. Motion carried.

The session began at 10:47 p.m. Members present were the Mayor, City Council, City Administrator, Finance Director and City Attorney.

Matters discussed were those of property acquisition, labor negotiations and pending litigation.

No action was taken and the Council returned to regular session at 11:02 p.m.

**ADJOURNMENT:** Motion by Wolfinger, seconded by Edinger to recess this meeting to June 21, 2004 at 3:00 p.m. in the City Council Chambers. Motion carried.

The meeting recess at 11:02 p.m.

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Sandi Bloem, Mayor

ATTEST:

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Susan K. Weathers, City Clerk